

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Robert A. Delitta, Individually and on
behalf of others similarly situated,Plaintiffs by,
Permissive Joiner,**CONFIDENTIALITY
AGREEMENT**-----
-against-

07 CV 09441 (CLB)(MDF)

City of Mt. Vernon New York,
A Municipal Corporation,Defendant.
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WHEREAS, the parties have agreed that certain documents, materials and information that will be produced, exchanged or disclosed in this litigation may contain confidential information;

WHEREAS, the parties want to provide a mechanism for the exchange of confidential information while limiting its distribution, the parties, by and through their respective counsel, agree to the following:

1. That any document containing confidential information may be designated confidential by placing on each page of the document (or a copy thereof, if a copy is produced) the term "**CONFIDENTIAL**." Alternatively, a party may inform opposing counsel by letter that a certain type of document shall be considered confidential, e.g., all memo books. Confidential information disclosed at a deposition may be designated confidential by a party by appropriate statements on the record.

2. If a party objects to the designation of any document as Confidential, they shall state the objection by letter to counsel for the disclosing party and shall particularly identify the designated Confidential information that the party contends is not confidential and the reasons supporting its contention. If the disclosing party does not agree to withdraw the Confidential

designation, then the party contending that such documents or information are not confidential may request by motion that the Court remove such information from the restrictions of this Confidentiality Agreement. Until the Court rules on the motion, the documents or information shall continue to be deemed Confidential. The burden of demonstrating that the information is confidential shall be on the party proposing the designation.

3. That the undersigned attorneys or other attorneys in their respective offices shall personally retain possession of all copies of such confidential documents, shall use them only in connection with the prosecution of this action and any related proceedings, including any appeals, and shall not disclose them or information obtained and/or learned from said confidential documents to anyone, except as permitted herein.

4. That neither the confidential documents nor any information obtained and/or learned therefrom shall be disclosed to any person other than:

- A. the parties in this action, their counsel and associated attorneys, employees, and legal assistants actively engaged in assisting counsel in the preparation of this action, witnesses, experts, consultants, stenographic reports and/or other agents of counsel involved in the prosecution of this case;
- B. to the Court and its authorized staff; and
- C. in its original form, to authors and recipients of such information.

5. That neither the confidential documents nor any information obtained and/or learned therefrom shall be disclosed to any person described in paragraphs 4(A) and (C), unless such person is first advised of the confidential nature of the documents and agrees to be bound by the terms of this Agreement.

6. That at the conclusion of this action, all copies of the confidential documents shall be maintained in confidential fashion or destroyed by counsel for all parties.

7. That the inadvertent or unintentional disclosure by any of the parties of confidential documents or information, regardless of whether the information was so designated at the time of disclosure, shall not be deemed to waive in whole or in part any of the parties' claims of confidentiality, either as to the specific information disclosed or as to any other information relating thereto or on the same or related subject matter.

8. That nothing herein shall prevent any of the parties from seeking an order modifying this agreement, whether by voluntary agreement of counsel or by order of the Court, or from objecting to discovery or the introduction of evidence which such party believes to be otherwise improper.

9. That nothing herein shall prevent a party from challenging the designation of a document or documents as "Confidential" through an appeal to the Judge or Magistrate Judge assigned to this case.

10. That should any party desire to use Confidential information in any filing with the Court, the party shall so advise the party having designated the document as confidential. If the party objects to such a filing, the parties shall meet and confer to reach a mutually acceptable resolution regarding the documents being filed. If no resolution can be reached, the parties shall execute and submit to the Court for approval a stipulation or motion to file such Confidential information under seal and such Confidential information shall not be filed until the Court approves the filing under seal.

11. That nothing in this Agreement shall be deemed to preclude the admission into evidence or to waive any objection to the admission into evidence, of any Confidential information, and the parties herein have reserved all right to seek admission or object to the admissibility into evidence of any Confidential information.

12. This Confidentiality Agreement shall survive the termination of this action.

(*)

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So-Ordered:

The Honorable Charles L. Breitart, U.S.D.J.

Dated: 6/23/08

MARK D. FOX
United States Magistrate Judge
Southern District of New York

(*) No documents may be filed under seal
without prior leave of the court.